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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement the
Commission's Procurement Incentive Framework
and to Examine the Integration of Greenhouse Gas
Emissions Standards into Procurement Policies.

Rulemaking 06-04-009
(Filed April 13, 2006)

BEFORE THE CALIFORNIA ENERGY COMMISSION

Order Instituting Informational Proceeding AB-32
Implementation: Greenhouse Gases

Docket 07-OIIP-01

**REPLY COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY
(U 902 M) AND SOUTHERN CALIFORNIA GAS COMPANY
(U 904 G) ON ADMINISTRATIVE LAW JUDGE'S RULING
REQUESTING COMMENTS AND NOTICING WORKSHOP
ON ALLOWANCE ALLOCATION ISSUES**

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November 14, 2007

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**I.
INTRODUCTION AND BACKGROUND**

In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission (the "Commission"), San Diego Gas & Electric ("SDG&E") and Southern California Gas Company ("SoCalGas") respectfully submit the following reply comments in the above-captioned Rulemaking concerning the October 15, 2007, *Administrative Law Judge's Ruling Requesting Comments and Noticing Workshop on Allowance Allocation Issues*.^{1/}

On October 31, 2007, SDG&E and SoCalGas responded in opening comments to specific questions posed by the ALJ Ruling on Allowance Allocation Issues in this Rulemaking. As discussed more fully below, SDG&E and SoCalGas herein reply to

^{1/} Ruling by ALJs TerKeurst and Lakritz available at <http://www.cpuc.ca.gov/EFILE/RULINGS/73858.htm>.

address a number of converging and diverging issues, interests and approaches raised by the opening comments of the parties.

II. GENERAL REPLY COMMENTS

Electric Sector

A. Summary of SDG&E/SoCalGas Position on Emission Allowances

SDG&E and SoCalGas articulated in their opening comments that electric sector emission allowances should be administratively allocated based on an output of electricity basis (total MWh consumed). Where MWh of consumption would receive the same allowances, without regard to fuel input, historical emissions, or current day emissions of the power consumed. SDG&E and SoCalGas could also conceivably support a per customer allocation as proposed by NRDC. Ideally, the emission allocations should decline over time in such a way that the electricity and natural gas sectors contribute a proportionate share of the state's GHG reduction goals. Furthermore, trading of allowances and offsets should be allowed to substitute for emission reductions otherwise mandated through programmatic standards, provided that appropriate verification systems are in place. Trading and off-sets expand the compliance tools available to regulated entities and help ensure that the lowest marginal-cost measures are undertaken.

In general, SDG&E and SoCalGas do not favor auctions. To the extent that auctions are used, they should be designed to maximum customer benefit by ensuring cost effective contributions to climate change mitigation. Proceeds should be directed to off-set price impacts to price-regulated entities and their customers and entities subject to competition from uncapped entities. SDG&E and SoCalGas support a simple and

transparent process with clear rules that would minimize gaming and price volatility. All auction revenues should be used to minimize the overall cost of achieving climate change objectives in a way that equitably apportions those costs and targets funding to the most cost effective measures. The funds generated should be directed on a proportional basis to the electric and gas utility sectors to mitigate rate impacts, fund acquisition of low or zero-carbon resources, increase energy efficiency and fund technology advancement. Furthermore, proceeds should be directed by utilities for the benefit of their customers with the exception of a small portion of proceeds to be centrally managed for basic research.

B. Transfer of Wealth/ Economic Harm Issues

Several parties raised the issue of wealth transfers including the Los Angeles Department of Water and Power (“LADWP”) and the Southern California Public Power Authority (“SCPPA”). In their view, the auction of GHG allocations or the free distribution based on initial electricity output (sales) creates a wealth transfer. The problem with this argument is that the State has determined that greenhouse gases are in fact an actual cost on society. If GHG are an actual cost, then entities that produce higher amounts of GHG are imposing a cost on society that is not currently being internalized. From this perspective, not allocating allowances based on output (or not auctioning), is a *de facto* and *de jure* systematic wealth transfer to entities with high GHG emitting resources.

Second, customers of utilities with a lower GHG footprint due to the expanded use of natural gas rather than coal in recent years, such as SDG&E, are already paying a premium for the use of a cleaner fuel. If, as presented at the workshop, Burbank’s

estimate of \$50 per metric ton of carbon as the differential to switch from coal to natural gas is accurate, then SDG&E customers are already paying such a premium in rates over and above what other utilities that are relying on coal are paying. Both in California and in the U.S., the cost of power for Load Serving Entities (“LSEs”) that heavily rely on coal are generally lower than for utilities with less coal and a lower GHG footprint (with the exception of LSEs with large amounts of hydro power). It is correspondingly unclear why consumers of utilities that already pay a premium in rates for cleaner fuel should additionally incur an equal share of the burden associated with the higher costs in implementing AB 32.

Third, the expected cost of GHG reduction to meet the 2020 goal in California used in the Burbank rate presentation of \$50/ton is higher than that projected in any widely accepted studies of the issue, hence exaggerating the overall rate impact shown in the Burbank presentation. While there is a great deal of uncertainty as to the potential cost of meeting future AB 32 GHG reductions, the California Public Utilities Commission (“CPUC”) has adopted a range of \$8 - \$25 per ton of CO₂ reduced.^{2/} Moreover, an independent study of this issue conducted by Synapse Energy Economics found values corresponding to the range adopted by the Commission based upon a thorough review of western utility resource planning documents along with modeling results and experience from emerging carbon markets in Europe.^{3/} Synapse Energy Economics’ forecast of future CO₂ costs for 2020 ranged from a low at \$10 per ton to a

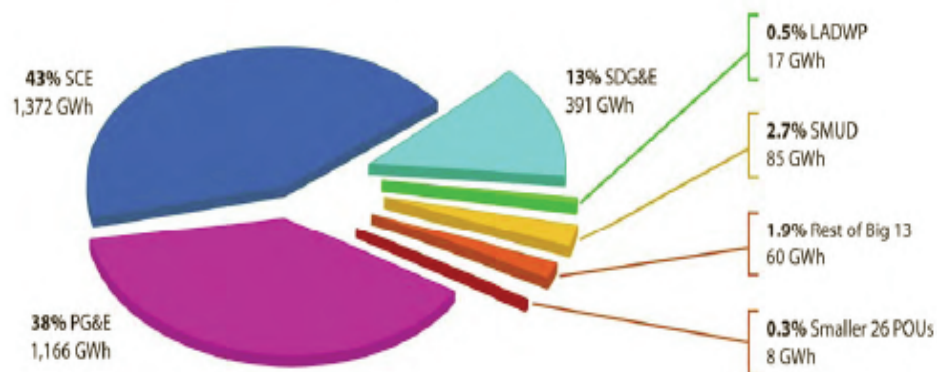
^{2/} D.04-12-048, page 152.

^{3/} Johnson, L. E. Hausman, A. Sommer, B. Beiwald, T. Woold, D. Schlissel, A. Roschelle and D. White, “Climate Change and Power: Carbon Dioxide Emissions Costs and Electricity Resource Planning,” Synapse Energy Economics, June, 2006.

high of \$40 per ton with the midpoint forecast at \$25 per ton, about half the value used by Burbank.

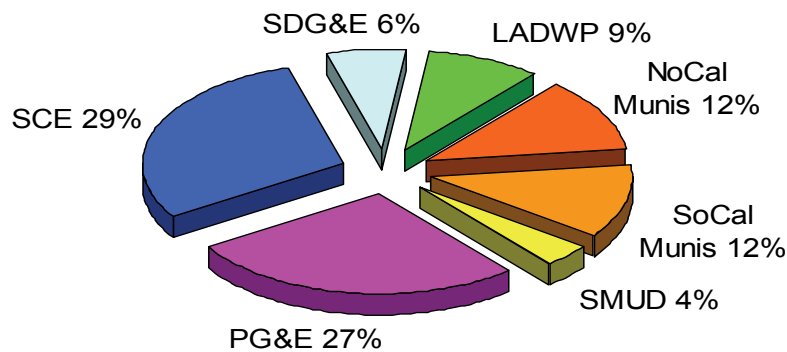
Fourth, it should be recognized that many of the lower emitting LSEs also have invested more on Energy Efficiency programs to reduce GHG as is shown in the charts provided below from the California Energy Commission's ("CEC") 2007 Integrated Energy Policy Report ("IEPR"), and which costs have been primarily borne by their customers. The LSEs who have done little or no Energy Efficiency programs in the past, on the other hand, will have the benefit under AB32 of "cashing in" on the "low hanging fruit" to generate GHG reductions. From this vantage point, the use of historical emissions has the appearance of a "wealth transfer" from LSEs who have undertaken significant EE to those who have not.

**Figure 3-1: Investor-Owned Utility and Publicly Owned Utility
Share of Electric Energy Savings in 2005**



Sources: 2006 *Energy Efficiency Annual Reports* for the investor-owned utilities. California Municipal Utilities Association, *Energy Efficiency in California's Public Power Sector: A Status Report*, December 2006 for the publicly owned utilities.

Percentage of 2008 Projected Load



Source :CEC Staff Final Energy Demand Forecast Report, October ,2007

A variation of the wealth transfer argument is the “economic harm” approach of Southern California Edison Company (“SCE”). Not only do they propose there be allocations to LSEs with high emitting resources as with an allocation based on historical emissions, but also an allocation to coal generators and high emitting gas resources that are resources selling into the short-term market. Besides the general issue that GHG costs are a cost that should be internalized, the SCE proposal would be very complicated to implement. First, the “economic harm” would vary hourly as marginal resources change. During peak periods when less efficient gas resources are on the margin, the economic harm to a coal producer may be close to zero, and any off-peak time when coal is on the margin, the economic harm would be zero. Any allocation, even one based on historical data, would have to be based on some production simulation model with agreed on parameters, a complicated process. Second, an allocation to mitigate “economic harm” will delay the closure of the old, high emitting plants if the receipt of the allocation is contingent on the plant being in operation since it lowers the long-run marginal cost of operations compared with no allocation. Third, it is unclear how it could be implemented

under the first seller approach to avoid legal challenge since allocations could be made to in-state known entities, but could not be allocated to unknown out-of-state entities. If allocations were made after-the-fact to high emitting resources to avoid legal challenges, it would impact the use of coal by changing the marginal price of this resource. No longer would the cost of the GHG fully impact the economic dispatch. The high emitting source, coal, would receive a side payment that would lower its marginal cost of bidding into the California market.

C. If Auctioning Is Recommended

A number of parties have recommended auctioning. Indeed, SDG&E and SoCalGas agree that auctioning is a necessary component of the allocation process if a first seller approach is taken. As was pointed out in the pre-workshop comments of SDG&E and SoCalGas and by other parties at the workshop, any auction revenues paid by electric sector bidders should flow back to LSEs. Flowing revenues back to LSEs on an output basis produces the same result as the SDG&E/SoCalGas proposed approach of free allocation to LSEs based on output with subsequent auction of all allowances to first sellers.

If auctioning is done in connection with a load-based cap, SDG&E and SoCalGas have concerns that one or more entities may have market power if the transportation sector is not included under the cap-and-trade program. Auctioning should not be used if market power is a major issue.

D. If a Starting Point Based on Historical Emissions is Recommended

Several parties, including SMUD and SCE, propose starting with a historical emissions and shifting over time during 2012-2020 to an output based allocation. If that

approach is taken by the Commission, SDG&E and SoCalGas have several recommendations:

- First, GHG historical emissions should be calculated based on the CARB GHG inventory and should be consistent with the reporting protocol.
- Second, the glide paths of all entities should converge rapidly to a common path toward the 2020 goal. SDG&E and SoCalGas believe that a normalization period going no further than 2015 would be appropriate. This would provide 9 years from the adoption of AB32 for entities to adjust portfolios and programs.
- Third, historical emissions should be based on data prior to 2007 (and the adoption of AB32) to reward early actions.
- Fourth, several historical years should be averaged to approximate a normal temperature and hydro conditions as well as averaging major outages of resources. For example, 2003-2005 or 2004-2006 are candidate years.
- Fifth, only MWhs produced at facilities owned or under long-term contract that were operating in 1990 and still operating in 2004 should be assigned historical emissions. The historical emissions would include both high emitting coal resources and low emitting hydro and nuclear resources. Data that has been provided by LSEs to CARB for 1990 GHG inventory could be used to identify those resources that should be counted. The remaining MWhs in the historical period (e.g., 2004-2006) should be based on the average residual emissions (an output basis). This approach would hold LSEs

accountable for decisions post-1990, and not disadvantage LSEs that have sought to lower emissions since 1990.

- Lastly, some reallocation should be made for LSEs with high EE spending over the period of 1990 through the baseline years in comparison to the state average, perhaps similar to Oregon’s approach.

Natural Gas Sector

SDG&E and SoCalGas disagree with the recommendation of several parties, including the Division of Ratepayer Advocates (“DRA”), National Resource Defense Council (“NRDC”) and SCPPA, that the natural gas sector should be treated identically with the electric sector as that common treatment of electric and natural gas sectors neglects to consider several critical differences in how the sectors operate. SoCalGas and SDG&E strongly disagree with implementing similar treatment for the natural gas sector for the reasons cited in initial comments: natural gas distribution companies are not combusting the fuel, only transporting it; natural gas distribution companies cannot change the GHG content of the fuel used by customers; natural gas consumption among small customers has been very inelastic, thus the cost of allowances will simply increase the price and not change behavior; a major GHG emissions from distribution company operations, storage operators and interstate pipelines (compressor stations and storage fields) are likely to be regulated directly by CARB as point sources and so there could be double-regulation and/or double-counting; and the other significant sources of emissions by distribution companies, storage operators and interstate pipelines which usually occurs through unanticipated or spurious system leaks, evaporative processes and windblown disturbances referred to as fugitive emissions, is not well measured and thus not well

suited to trading. SDG&E/SoCalGas also agree with the El Paso/Mojave comments that trying to incorporate interstate pipeline companies into regulation under AB 32 could provoke unintended Commerce Clause issues.

In addition, incorporating small gas customers will create some tracking difficulties. Unlike with large gas customers and the transportation sector, it may be difficult to track fuel substitution caused by trading rules. Equipment for small customers is not tracked so that cap-and-trade induced rate increases, if large enough, may prompt incentives for fuel substitution of propane, butane, LPG, or electricity for natural gas. This type of leakage can be avoided with direct regulation of this sector through California fuel-neutral building and appliance standards as well as utility natural gas energy efficiency programs.

III. CONCLUSION

For the reasons set forth herein, the Commission should adopt emission allowance allocation measures in accordance with the above and proposed recommendations in the opening comments of SDG&E and SoCalGas submitted October 31, 2007.

Respectfully submitted this 14th day of November, 2007.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **REPLY COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) AND SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) ON ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS AND NOTICING WORKSHOP ON ALLOWANCE ALLOCATION ISSUES** on each party named in the official service list for proceeding R.06-04-009 by electronic service, and by U.S. Mail to those parties who have not provided an electronic address.

Copies were also sent via Federal Express to Commissioner Michael R. Peevey and assigned Administrative Law Judges Charlotte TerKeurst and Jonathan Lakritz.

Executed this 14th day of November 2007 at San Diego, California.

/s/ Susan A. Long
Susan A. Long



CPUC Home

CALIFORNIA PUBLIC UTILITIES COMMISSION

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